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12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SOUTHERN DIVISION**

16 BLUE SPIKE LLC; BLUE SPIKE)
INTERNATIONAL LTD.;) Case No. 2:19-cv-00748-JAK-JPR
17 WISTARIA TRADING LTD.,)
18) **JOINT REPORT REGARDING**
Plaintiffs,) **CASE SCHEDULING AND**
19) **DISCOVERY**
20 vs.) **PURSUANT TO DKT. 144**
21)
PANDORA MEDIA, INC.,)
22)
23 Defendant.)

I. INTRODUCTION

Pursuant to this Court's December 26, 2019 Order (Dkt. 144), Plaintiffs Blue Spike LLC, Blue Spike International Ltd., and Wistaria Trading Ltd. ("Blue Spike" or "Plaintiffs") and Defendant Pandora Media, LLC ("Pandora" or "Defendant") hereby submit this Joint Report addressing case scheduling and the discovery sought by Blue Spike in order to respond to Pandora's motion for summary judgment (Dkt. 89).

II. PRE-TRIAL CASE SCHEDULE

The parties provide two alternative proposed schedules below. The first schedule is the parties' proposal if the case proceeds on the infringement theory set forth in Blue Spike's existing infringement contentions. In the event that Blue Spike's yet-to-be-served Amended Infringement Contentions are permitted over Pandora's objections, the parties have provided a second proposed schedule to account for additional discovery that may be necessary.

A. Proposed Schedule If Only Existing Infringement Theory Proceeds

<u>Deadline</u>	<u>Parties' Proposed Date</u>
Amended Infringement Contentions (Dkt. 144 at 2)	January 15, 2020 ¹
Pandora's Objections to Amended Infringement Contentions (Dkt. 144 at 2)	January 29, 2020
Blue Spike's Response re Amended Infringement Contentions (Dkt. 144 at 2)	February 5, 2020
Completion of Discovery Relevant	April 24, 2020

¹ Blue Spike intends to move for an extension of the January 8, 2020 date in the Court's December 26, 2019 Order, (Dkt. 144) due to the intervening holiday period.

1	to Pandora's Motion for Summary	
2	Judgment (Dkt. 89)	
3	Blue Spike's Supplemental	May 8, 2020
4	Opposition to Pandora's Motion for	
5	Summary Judgment (Dkt. 89)	
6	Pandora's Reply to Blue Spike's	May 29, 2020
7	Supplemental Opposition to	
8	Pandora's Renewed Motion for	
9	Summary Judgment	
10	Final Infringement Contentions;	July 28, 2020
11	Expert Reports on issues where	
12	Blue Spike has the Burden of Proof	
13	Final Invalidity Contentions; Expert	August 25, 2020
14	Reports on issues where Pandora	
15	has the Burden of Proof and	
16	Pandora's Rebuttal Expert Reports	
17	Blue Spike's Rebuttal Expert	September 22, 2020
18	Reports	
19	Close of Discovery	October 20, 2020
20	Last Date to File All Motions	November 17, 2020

B. Proposed Schedule If Amended Infringement Contentions Permitted

<u>Deadline</u>	<u>Parties' Proposed Date</u>
Amended Infringement	January 15, 2020 ²

² Blue Spike intends to move for an extension of the January 8, 2020 date in the Court's December 26, 2019 Order, (Dkt. 144) due to the intervening holiday period.

1	Contentions (Dkt. 144 at 2)	
2	Pandora's Objections to Amended	January 29, 2020
3	Infringement Contentions (Dkt. 144	
4	at 2)	
5	Blue Spike's Reply re Amended	February 5, 2020
6	Infringement Contentions (Dkt. 144	
7	at 2)	
8	Parties to meet and confer to	April 1, 2020
9	determine whether additional claim	
10	construction is necessary and	
11	submit a proposed briefing	
12	schedule ³	
13	Completion of Discovery Relevant	April 24, 2020
14	to Pandora's Motion for Summary	
15	Judgment (Dkt. 89)	
16	Blue Spike's Supplemental	May 8, 2020
17	Opposition to Pandora's Motion for	
18	Summary Judgment (Dkt. 89)	
19	Pandora's Reply to Blue Spike's	May 29, 2020
20	Supplemental Opposition to	
21	Pandora's Renewed Motion for	
22	Summary Judgment	
23	Final Infringement Contentions;	September 16, 2020
24	Expert Reports on issues where	

³ Because Blue Spike has not yet served its Amended Infringement Contentions, Pandora does not yet know if additional claim construction disputes will be implicated by those contentions.

Blue Spike has the Burden of Proof	
Final Invalidity Contentions; Expert Reports on issues where Pandora has the Burden of Proof/Rebuttal Expert Reports	October 14, 2020
Blue Spike's Rebuttal Expert Reports	November 11, 2020
Close of Discovery	December 16, 2020
Last Date to File All Motions	January 27, 2021

III. DISCOVERY DISPUTES

Pursuant to this Court's December 26, 2019 Order (Dkt. 144) ("Order"), the parties met and conferred on January 3, 2020. Based on the language of the Order, the parties understood that the present Joint Report should be limited in scope to discovery issues regarding the infringement theory outlined in Blue Spike's September 26, 2018 initial infringement contentions (the "Existing Infringement Theory"). As such, this Joint Report is limited to only those discovery disputes arising directly from the Existing Infringement Theory. (*See, in general*, Dkt. 136, Ex. 9.) The parties agree to address all discovery disputes from Blue Spike's Amended Infringement Contentions (if permitted) as such issues arise.

Therefore, only the disputes identified in Chart One of Blue Spike's Supplemental Submission Pursuant to Dkt. 131 Seeking Discovery ("Supplemental Submission") are addressed here. (*See, in general*, Dkt. 136, Ex 9.) Blue Spike reserves all rights to raise discovery disputes related to any of its Amended Infringement Contentions, including those articulated in Chart Two of the Supplemental Submission.

The parties provide the following report regarding discovery arising directly from the Existing Infringement Theory:

Summary of Discovery	The Parties' Discovery Plan
<u>Blue Spike's RFP Nos. 42, 85, 88, 100, and 103, and Interrogatory No. 14.</u>	The parties have conferred regarding the requests for production and interrogatories and believe they are likely to reach an agreement regarding what further responses are necessary. However, because of the unavailability of Pandora employees due to the holidays, the parties were unable to confirm the agreement before the filing deadline for this Report. The parties will file a supplement no later than Wednesday, January 8, 2020, setting forth the parties' agreement regarding these requests for production and interrogatories (or their positions, if an agreement cannot be reached).
<u>Source Code</u>	The parties agree that Blue Spike will examine Pandora's source code.
<u>The deposition of Ivo Pletikosic.</u> (Dkt. 136, Ex. 9 at 5; Ex. 4 at 8.)	The parties have agreed to resolve the discovery sought from Mr. Pletikosic's deposition through a deposition of one of more of Pandora's corporate representatives pursuant to Fed. R. Civ. P. 30(b)(6) on topics directed to Pandora's control or direction of UMG or other third parties, or Pandora's use of watermarking.
<u>The deposition of Kyle Lind.</u> (Dkt. 136, Ex. 9 at 5; Ex. 6 at 9.)	The parties have agreed to resolve the discovery sought from Mr. Lind's deposition through a deposition of one of more of Pandora's corporate

1		representatives pursuant to Fed. R. Civ. P. 30(b)(6)
2		on topics directed to Pandora's control or direction
3		of UMG or other third parties, or Pandora's use of
4		watermarking.
5	<u>The deposition of Craig</u>	The parties have agreed to resolve the discovery
6	<u>McFadden</u> . (Dkt. 136, Ex. 9 at	sought from Mr. McFadden's deposition through a
7	6; Dkt. 89-9.)	deposition of one of more of Pandora's corporate
8		representatives pursuant to Fed. R. Civ. P. 30(b)(6)
9		on topics directed to Pandora's control or direction
10		of UMG or other third parties, or Pandora's use of
11		watermarking.
12	Universal Music Group	Blue Spike will proceed with its third-party
13	("UMG") and Universal	discovery efforts regarding UMGRS. (Dkt. 136,
14	Recording Services, Inc.	Ex. 9 at 6-7; Ex. 3 at 4-5.)
15	("UMGRS"). (Dkt. 136, Ex.	
16	3.)	
17	Warner Music Group	Blue Spike will proceed with its third-party
18	("WMG"). (Dkt. 136, Ex. 9 at	discovery efforts regarding WMG. (Dkt. 136, Ex.
19	7; Ex. 7 at 15.)	9 at 7; Ex. 7 at 15.)

1 DATED: January 6, 2020

Respectfully submitted,

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ATTESTATION OF SIGNATURES

I hereby attest that the concurrence in the filing of this document has been obtained from the signatory indicated by a “conformed” signature (/s/) within this e-filed document.

Executed on January 6, 2020.

/s/ Jeffrey Francis Craft
Jeffrey Francis Craft SBN 147186

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the Electronic Service List for this case.

Executed on January 6, 2020

/s/ Jeffrey Francis Craft
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